

Testimony of
Walter J. Bishop
General Manager
Contra Costa Water District

Before the
Little Hoover Commission
Hearing on the Governance of CALFED
Thursday 22, 2005

Chairman Alpert and Members of the Commission:

My name is Walter J. Bishop and I am General Manager of the Contra Costa Water District (CCWD). As one of the primary negotiators of the original CALFED Record of Decision (ROD), I must admit that I am incredibly disappointed to be here today providing testimony because of the lack of progress of the CALFED Bay-Delta Program in meeting its core functions of fixing the Delta by improving water quality and reliability, levees and the ecosystem. As you know, CALFED was designed to restore the Delta ecosystem and improve Delta water quality and reliability, thereby reducing conflicts in the State's water system. Meeting the CALFED goals is critical to the agency I represent, the Contra Costa Water District and to Contra Costa County because it focuses on Delta water quality and supply reliability. All of CCWD's water comes directly from the Delta, so CCWD and its customers are affected by the successes and failures of CALFED more than anyone served by any other urban water agency.

CCWD has been an active participant and leader in the CALFED program since its inception beginning with the 1994 Bay-Delta Accord. Since the 2000 Record of Decision, CCWD has been an outspoken advocate for balanced achievement across the four CALFED objectives of ecosystem restoration and improved water supply reliability, water quality, and levee integrity. Unfortunately, CALFED has not achieved the near-term objectives nor balanced funding levels that would help provide balance across the program objectives.

Please describe inadequacies in CALFED's governance structure and how these inadequacies limit progress of the CALFED program. Please provide specific examples of how flaws in governance structure create problems .

In principle, CALFED is both a "Program" and a collection of agencies that are supposed to work together to achieve the goals of the Program, with the Bay-Delta Authority as the agency providing the leadership and direction to the participating agencies. In practice, CALFED has not provided the leadership or direction to the implementing agencies, and with a few exceptions, the implementing agencies have not adopted CALFED goals or objectives as priorities that they are obligated to achieve. The result has been in many instances, and in particular, in the area of water quality, the implementing agencies have

paid lip service to CALFED, but have not actively incorporated meeting CALFED objectives into their missions or milestones.

A specific example is seen in the funding provided to CALFED through Proposition 50. While the implementing agencies participated in meetings with CALFED and the public and were well aware of CALFED's water quality improvement goals, they nonetheless chose to interpret Proposition 50 as not requiring any set-aside funding or priority for activities that would help achieve those CALFED goals. The result is that there is no clear funding that will help ensure CALFED can meet its water quality improvement goals, and the water quality program lags behind. CALFED was unable to provide the leadership or authority to ensure its program would be adequately funded by the implementing agencies.

The CALFED Program must be funded and implemented in a balanced manner in order to meet the 2000 ROD promise of improved water quality, supply, and ecosystem restoration. The CALFED ROD specifically calls for "everyone to get better together." The original concept was to bundle projects as a group to move forward in a balanced manner. Instead of bundling projects, the CALFED governance structure allowed for the funding to be spent disproportionately on grants and individual projects by individual implementing agencies. This process will lead to certain imbalance in funding and in program results.

For example, the current State budget and proposed Federal budget provide less than 1% of CALFED related funding for water quality, which is a guarantee for imbalance in the CALFED Program. Once the program is out of balance, the Authority will be severely restricted in its ability to acquire further federal funding and implement any of its programs. As a result, even programs that the Legislature chooses to fund can remain unimplemented for the 2005-06 Fiscal Year.

The proposed 10-year CALFED budget was inappropriately high at \$8 billion. The CALFED leadership needs to focus on existing "available" funding for core projects to provide the State of California with definable assets rather than studies. The concept of a statewide water utility tax to continue to fund CALFED grants and studies is one we cannot support. The federal funding element is in place and the local agencies are contributing their fair share. In fact, millions of dollars are spent at the local level for infrastructure and those costs are already being passed along to our ratepayers. To consider asking the local ratepayer to subsidize the state's share of a project is untenable. CALFED needs to use existing state funding for several core projects to ensure balance in the CALFED program.

What functions do you believe are most important for the governance structure to provide?

The most important priority for the governance structure is to ensure that responsible agencies implement the projects identified in the ROD in a balanced way and in the timelines specified. The governance structure must also provide the necessary leadership authority to hold the agencies responsible for meeting the CALFED objectives on

schedule and in a balanced manner. In addition, the governance structure should allow the Legislature to condition expenditures based on CALFED reporting out success in meeting the ROD.

The Delta is at a crossroads and timely investments in assets that improve water quality are critical both for fishery enhancement and for drinking water quality for the 23 million Californians that rely on the Delta as their source of drinking water. The continuous degradation of Delta drinking water quality over the past 15 years as well as the “crash” of the endangered Delta smelt and other fish populations have occurred despite \$1 billion spent since 2000 on ecosystem restoration. These trends provide evidence of the priority that must be given to investing in not just science and studies but to projects that result in actual Delta water quality improvements.

Please describe your recommendations for improving the CALFED governance structure.

CALFED should be required to prepare a report on the success of the implementation of the ROD which includes progress on priority projects and balanced implementation. This report should be in the form of regular audits and should be the basis of the legislative budget approvals. The CALFED governance structure must be held accountable for meeting the program goals, and it must have sufficient authority to ensure it can meet those goals. Implementing agencies must be directed to provide the resources to meet the CALFED goals for which they are responsible.

At this point, the CALFED focus must be on Delta improvements that achieve measurable improvements in the four key areas: water quality, reliability, levees and the Delta ecosystem. Other related programs, such as terrestrial habitat, upstream watershed improvements, water use efficiency, water transfers and non-essential science are longer-term endeavors with high costs (over 75% of the proposed 10-year budget) and have already received a disproportionately high amount of funding: these can safely receive a lower priority until the core elements are achieving substantial and measurable improvements.

In consultation with the various regulatory and implementing agencies, the CALFED director should be required to report to the Legislature on the funding component of the various elements for each fiscal year. If there is a discrepancy in funding, the Legislature should convene a hearing with the appropriate agency. The CALFED governing agency should have authority to be responsible and accountable for project completion and for meeting its objectives.

Do you believe that the California Bay-Delta Authority should have more legal authority than it currently has over implementing agencies? If so, how would you fashion that authority?

The Authority does not have the legal authority it needs to match its actual and perceived responsibilities. The problem with the governance structure is two-fold. First, CALFED

should be able to stop agency expenditures for CALFED programs if those agencies are not focused on priority projects or if those projects are not being implemented in a balanced way. Second, the Executive Director of CALFED has to be charged with the responsibility to implement the ROD priority projects in the identified timelines and has to possess the leadership skills to do so. In the past, the critical element of accountability has been lacking. The CALFED Executive Director must issue clear lines of responsibility for the completion of program actions and adherence to program schedules.

The CALFED Authority is essentially an advisory body. The Authority needs strong, committed members who will be able to work through cross-jurisdictional barriers and fashion solutions that meet the broad objectives of CALFED—including water supply reliability, better water quality, and an improved Delta ecosystem. The CALFED Authority should provide leadership on policy and accountability on a programmatic level; however, the Legislature should make their determinations critical for future funding to agencies.

What is your assessment of the state and federal partnership that is the basis of the CALFED program? Do you have recommendations for improving the relationship between the state and federal entities that are needed for CALFED to succeed?

The state and federal partnership has been hampered by intra-agency turf battles, uneven funding, and little or no representation by agencies responsible for critical areas of the ROD. The Governor needs to direct the appropriate agencies responsible for water supply, water quality, levee repair, and ecosystem restoration to be engaged on CALFED solutions. A similar directive needs to be issued at the federal level. For the Environmental Protection Agency to not engage on the water quality area of CALFED and to assign its responsibilities to the U.S. Bureau of Reclamation is compelling evidence of the intra-agency turf battles that send CALFED down the wrong path.

We need to ensure that the original goal of CALFED remains to replace conflict with collaboration. The interaction between state and federal agencies needs to assure “balanced” progress by implementing “linked sets of actions” so that all Delta interests improve simultaneously.

Mr. Chairman and Members of the Commission, this concludes my written testimony. I would be happy to answer any questions.